

ASSEMBLY BILL

No. 1291

Introduced by Assembly Member Niello

February 27, 2009

An act to amend Sections 1513.5, 1514, 1516, 1520, 1532, 1540, 1560, 1563, 1565, and 1577 of the Code of Civil Procedure, relating to unclaimed property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1291, as introduced, Niello. Unclaimed property.

Existing law, the Unclaimed Property Law, governs the disposition of unclaimed property, including the escheat of certain property to the state. Those provisions require a person holding funds or other property escheated to the state to report to the Controller certain information regarding the property and the owner.

Existing law requires the holder of certain property, including certain property held by a banking or financial organization, certain sums held or owing by a business association to shareholders or other specified persons, and tangible property that is held in the ordinary course of the holder's business, to notify the owner, at prescribed times, of information regarding escheat.

This bill would require that those notices contain certain information and would allow the holder to give additional notices, as specified. The bill would require that, at the time a new account is opened with a banking or financial organization, the organization provide a written notice to the person opening the account regarding escheat.

Existing law provides that the contents of any safe deposit box or any other safekeeping repository held in this state by a business association escheat to the state if unclaimed by the owner for more than three years

from the date on which the lease or rental period on the box or other repository expired, or from the date of termination of another specified agreement, whichever last occurs.

This bill would provide, instead, that the contents of a safe deposit box or other safekeeping repository, or the proceeds of sale of those contents, escheat to the state if unclaimed for more than 5 years from the later of the 2 dates described above. The bill would require the business association to notify the owner of the contents of a safe deposit box twice, at specified times, regarding escheat, and would specify the contents of the notice. The bill would also require a business association to provide a notice regarding escheat to a person opening a safe deposit box. The bill would provide for a form by which the customer may declare an intention to maintain the safe deposit box or other safekeeping repository and would authorize the business association to impose a service charge for this notice. The bill would provide that the contents of a safe deposit box shall not escheat to the state under certain circumstances.

Existing law requires every person holding funds or other property escheated to the state to report to the Controller, as specified. Existing law every person filing such a report to pay or deliver to the Controller all escheated property specified in the report within a certain period.

This bill would allow the Controller to postpone the date for payment or delivery of the property, and the date for any report required by the above provisions, upon his or her own motion or upon written request by any person required to pay or deliver the property or file a report.

Existing law allows any person, excluding another state, who claims an interest in property paid or delivered to the Controller under the above provisions of law to file a claim to the property or to the net proceeds from its sale. Existing law requires the Controller to consider each claim within 180 days after it is filed.

This bill would require the Controller to add interest, at a prescribed rate, to the amount of any claim paid to the owner under these provisions for the period the property was on deposit in the Unclaimed Property Fund, except as specified. It would require a holder who pays to the owner property that has escheated to the state and that, if claimed from the Controller, would be subject to the provisions regarding the payment of interest to add interest in accordance with those provisions, and would require the Controller to repay that interest to the holder.

Existing law provides that a person who pays or delivers escheated property to the Controller under the above provisions is relieved of all

liability to the extent of the value of the property paid or delivered for any claim that then exists or that thereafter may arise.

This bill would provide, instead, that a person who pays or delivers escheated property to the Controller under the above provisions and who, prior to escheat, if the person's records contain an address for the apparent owner, has made reasonable efforts to notify the owner by mail or electronically that the customer's property, deposit, account, shares, or other interest will escheat to the state, is relieved of all liability to the extent of the value of the property paid or delivered for any claim that then exists or that thereafter may arise.

Existing law provides for the disposition of securities held by the Controller under the above provisions. Existing law provides that, if the securities have been sold, a person making a valid claim shall be entitled to receive the net proceeds received by the Controller from the sale of the securities.

This bill would provide, instead, that a person making a valid claim under the above provisions after the securities have been sold shall be entitled to receive the net proceeds from the sale and shall not be entitled to receive any appreciation in the market value of the securities occurring after the sale by the Controller.

Existing law requires that any property delivered to the Controller pursuant to the above provisions that has no apparent commercial value be retained by the Controller for not less than 18 months from the date the property is delivered to the Controller.

This bill would require, instead, that the Controller retain that property for not less than 7 years.

Existing law requires that any person who fails to report, pay, or deliver unclaimed property within the time prescribed by these provisions, unless that failure is due to reasonable cause, pay to the Controller interest at the rate of 12% per annum on that property or value thereof from the date the property should have been reported, paid, or delivered.

This bill would require, in addition, that any person who fails to file a report in the time and manner required by specified provisions of law, unless that failure is due to reasonable cause, pay to the Controller interest as described above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1513.5 of the Code of Civil Procedure is amended to read:

1513.5. (a) Except as provided in subdivision (c), if the holder has in its records an address for the apparent owner, which the holder's records do not disclose to be inaccurate, every banking or financial organization shall make reasonable efforts to notify by mail any customer that the customer's deposit, account, shares, or other interest in the banking or financial organization will escheat to the state pursuant to subdivision (a) or (b) of Section 1513. The holder shall give notice either:

(1) Not less than two years nor more than two and one-half years after the date of last activity by, or communication with, the owner with respect to the account, deposit, shares, or other interest, as shown on the record of the financial organization.

(2) Not less than six nor more than 12 months before the time the account, deposit, shares, or other interest becomes reportable to the Controller in accordance with this chapter.

(b) The notice required by this section shall specify the time that the deposit, account, shares, or other interest will escheat and the effects of escheat, including the necessity for filing a claim for the return of the deposit, account, shares, or other interest. *The face of the notice shall contain a heading centered at the top that reads as follows: "THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT US," or substantially similar language.* The notice required by this section shall, in bold or in a font a minimum of two points larger than the rest of the notice, (1) specify that since the date of last activity, or for the last two years, there has been no customer activity on the deposit, account, shares, or other interest; (2) identify the deposit, account, shares, or other interest by number or identifier; (3) indicate that the deposit, account, shares, or other interest is in danger of escheating to the state; and (4) specify that the California Unclaimed Property Law requires banks, banking organizations, and financial organizations to transfer funds of a deposit, account, shares, or other interest if it has been inactive for three years. It shall also include a form, as prescribed by the Controller, by which the customer may declare

1 an intention to maintain the deposit, account, shares, or other
2 interest. If that form is filled out, signed by the customer, and
3 returned to the banking or financial organization, it shall satisfy
4 the requirement of paragraph (3) of subdivision (a) or paragraph
5 (3) of subdivision (b) of Section 1513. The banking or financial
6 organization may impose a service charge on the deposit, account,
7 shares, or other interest for this notice in an amount not to exceed
8 the administrative cost of mailing the notice and form and in no
9 case to exceed two dollars (\$2).

10 (c) Notice as provided by subdivisions (a) and (b) shall not be
11 required for deposits, accounts, shares, or other interests of less
12 than fifty dollars (\$50), and no service charge may be made for
13 notice on these items.

14 (d) *In addition to the notices required pursuant to subdivision*
15 *(a), the holder may give additional notice as described in*
16 *subdivision (b) at any time between the date of last activity by, or*
17 *communication with, the owner and the date the holder transfers*
18 *the deposit, account, shares, or other interest to the Controller.*

19 (e) *At the time a new account is opened with a banking or*
20 *financial organization, the organization shall provide a written*
21 *notice to the person opening the account informing the person that*
22 *his or her property may be transferred to the applicable state if*
23 *no activity occurs in the account within the time period specified*
24 *by state law.*

25 SEC. 2. Section 1514 of the Code of Civil Procedure is
26 amended to read:

27 1514. (a) *The contents of, or the proceeds of sale of the*
28 *contents of, any safe deposit box or any other safekeeping*
29 *repository, held in this state by a business association, escheat to*
30 *this state if unclaimed by the owner for more than ~~three~~ five years*
31 *from the date on which the lease or rental period on the box or*
32 *other repository expired, or from the date of termination of any*
33 *agreement because of which the box or other repository was*
34 *furnished to the owner without cost, whichever last occurs.*

35 (b) *If a business association has in its records an address for*
36 *an apparent owner of the contents of, or the proceeds of sale of*
37 *the contents of, a safe deposit box or other safekeeping repository*
38 *described in subdivision (a), and the business association's records*
39 *do not disclose the address to be inaccurate, the business*
40 *association shall make reasonable efforts to notify the owner by*

1 mail, or, when the owner has consented to electronic notifications,
2 electronically, that the owner's contents will escheat to the state
3 pursuant to this section. The business association shall give notice
4 at each of the following two times before the date the contents
5 become reportable to the Controller in accordance with this
6 chapter:

7 (1) Not less than two and one-half years and not more than
8 three years before that date.

9 (2) Not less than six and not more than 12 months before that
10 date.

11 (c) (1) The notice required by subdivision (b) shall, in bold or
12 in a font a minimum of two points larger than the rest of the notice,
13 exclusive of the heading, do all of the following:

14 (A) Specify that since the date of last activity or for the last two
15 years or four years, as appropriate, there has been no customer
16 activity on the safe deposit box or other safekeeping repository.

17 (B) Identify the safe deposit box or other safekeeping repository
18 by number or identifier.

19 (C) Indicate that the contents of the safe deposit box or other
20 safekeeping repository are in danger of escheating to the state.

21 (D) Specify that the California Unclaimed Property Law
22 requires business associations to transfer the contents of a safe
23 deposit box or other safekeeping repository to the Controller if it
24 has been inactive for five years.

25 (2) The face of the notice required by subdivision (b) shall
26 contain a heading centered at the top that reads as follows:

27 "THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY
28 YOU THAT YOUR UNCLAIMED PROPERTY MAY BE
29 TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT
30 US," or substantially similar language.

31 (3) The notice shall also include a form, as prescribed by the
32 Controller, by which the customer may declare an intention to
33 maintain the safe deposit box or other safekeeping repository by
34 either renewing the lease, rental period, or agreement, or otherwise
35 taking possession of the property from the banking or financial
36 organization. If that form is filled out, signed by the customer, and
37 returned to the business association, it shall be considered as a
38 claim for the safe deposit box or other safekeeping repository and
39 the contents shall not escheat. The business association may impose
40 a service charge on the safe deposit box or other safekeeping

1 repository for this notice in an amount not to exceed the
2 administrative cost of mailing the notice and form, and in no case
3 to exceed two dollars (\$2).

4 (d) In addition to the notices required pursuant to subdivision
5 (b), the business association may give additional notice in
6 accordance with subdivision (c) at any time between the date of
7 the last activity by, or communication with, the owner and the date
8 the business association transfers the contents of the safe deposit
9 box or other safekeeping repository to the Controller.

10 (e) A safe deposit box or other safekeeping repository shall not,
11 however, escheat to the state if, during the previous five years, the
12 owner has owned any demand, savings, or matured time deposit,
13 or account subject to a negotiable order of withdrawal, made with
14 a banking organization or financial organization and, with respect
15 to that deposit or account, the owner has done any of the acts
16 described in paragraph (1), (2), or (3) of subdivision (a) of Section
17 1513 and the financial organization has communicated
18 electronically or in writing with the owner, at the address to which
19 communications regarding that deposit or account are regularly
20 sent, with regard to the deposit or account that would otherwise
21 escheat under that section. For purposes of this subdivision,
22 “communications” means account statements of interest paid for
23 federal and state income tax purposes. Notwithstanding the
24 foregoing, in the event the customer is in default under the safe
25 deposit box or other safekeeping repository agreement, the banking
26 organization or financial organization may pay or deliver the
27 contents of, or the proceeds of sale of the contents of, the safe
28 deposit box or other safekeeping repository to the customer after
29 deducting any amount due and payable from those proceeds under
30 that agreement. Upon making that payment or delivery under this
31 subdivision, the banking organization or financial organization
32 shall be relieved of all liability to the extent of the value of those
33 contents or proceeds.

34 (f) At the time a new account for a safe deposit box or other
35 safekeeping repository is opened with a business association, the
36 association shall provide a written notice to the person opening
37 the account informing the person that his or her property may be
38 transferred to the applicable state if no activity occurs in the
39 account within the time period specified by state law.

1 (g) A banking organization may directly escheat the contents
2 of a safe deposit box or other safekeeping repository without
3 exercising its rights under Article 2 (commencing with Section
4 1660) of Chapter 13 of Division 1 of the Financial Code

5 SEC. 3. Section 1516 of the Code of Civil Procedure is
6 amended to read:

7 1516. (a) Subject to Section 1510, any dividend, profit,
8 distribution, interest, payment on principal, or other sum held or
9 owing by a business association for or to its shareholder, certificate
10 holder, member, bondholder, or other security holder, or a
11 participating patron of a cooperative, who has not claimed it, or
12 corresponded in writing with the business association concerning
13 it, within three years after the date prescribed for payment or
14 delivery, escheats to this state.

15 (b) Subject to Section 1510, any intangible interest in a business
16 association, as evidenced by the stock records or membership
17 records of the association, escheats to this state if (1) the interest
18 in the association is owned by a person who for more than three
19 years has neither claimed a dividend or other sum referred to in
20 subdivision (a) nor corresponded in writing with the association
21 or otherwise indicated an interest as evidenced by a memorandum
22 or other record on file with the association, and (2) the association
23 does not know the location of the owner at the end of the three-year
24 period. With respect to the interest, the business association shall
25 be deemed the holder.

26 (c) Subject to Section 1510, any dividends or other distributions
27 held for or owing to a person at the time the stock or other security
28 to which they attach escheats to this state also escheat to this state
29 as of the same time.

30 (d) With respect to any interest that may escheat pursuant to
31 subdivision (b), the business association shall make reasonable
32 efforts to notify the owner by mail that the owner's interest in the
33 business association will escheat to the state. The notice shall be
34 given not less than 6 nor more than 12 months before the time the
35 interest in the business association becomes reportable to the
36 Controller in accordance with this chapter. *The face of the notice*
37 *shall contain a heading centered at the top that reads as follows:*
38 *"THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY*
39 *YOU THAT YOUR UNCLAIMED PROPERTY MAY BE*
40 *TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT*

US,” or substantially similar language. The notice required by this subdivision shall specify the time that the interest will escheat and the effects of escheat, including the necessity for filing a claim for the return of the interest. The notice required by this section shall, in bold or in a font a minimum of two points larger than the rest of the notice, (1) specify that since the date of last activity, or for the last two years, there has been no customer activity on the deposit, account, shares, or other interest; (2) identify the deposit, account, shares, or other interest by number or identifier; (3) indicate that the deposit, account, shares, or other interest is in danger of escheating to the state; and (4) specify that the California Unclaimed Property Law requires banks, banking organizations, and financial organizations to transfer funds of a deposit, account, shares, or other interest if it has been inactive for three years. It shall also include a form, as prescribed by the Controller, by which the owner may confirm the owner’s current address. If that form is filled out, signed by the owner, and returned to the holder, it shall be deemed that the business association knows the location of the owner.

(e) In addition to the notice required pursuant to subdivision (d), the holder may give additional notice as described in subdivision (d) at any time between the date of last activity by, or communication with, the owner and the date the holder transfers the deposit, shares, or other interest to the Controller.

SEC. 4. Section 1520 of the Code of Civil Procedure is amended to read:

1520. (a) All tangible personal property located in this state and, subject to Section 1510, all intangible personal property, except property of the classes mentioned in Sections 1511, 1513, 1514, 1515, 1515.5, 1516, 1517, 1518, 1519, and 1521, including any income or increment thereon and deducting any lawful charges, that is held or owing in the ordinary course of the holder’s business and has remained unclaimed by the owner for more than three years after it became payable or distributable escheats to this state.

(b) Except as provided in subdivision (a) of Section 1513.5, subdivision (b) of Section 1514, and subdivision (d) of Section 1516, if the holder has in its records an address for the apparent owner of property valued at fifty dollars (\$50) or more, which the holder’s records do not disclose to be inaccurate, the holder shall

1 make reasonable efforts to notify the owner by mail that the
2 owner's property will escheat to the state pursuant to this chapter.
3 The notice shall be mailed not less than six nor more than 12
4 months before the time when the owner's property held by the
5 business becomes ~~transferable~~ *reportable* to the Controller in
6 accordance with this chapter. *The face of the notice shall contain*
7 *a heading centered at the top that reads as follows: "THE STATE*
8 *OF CALIFORNIA REQUIRES US TO NOTIFY YOU THAT YOUR*
9 *UNCLAIMED PROPERTY MAY BE TRANSFERRED TO THE*
10 *STATE IF YOU DO NOT CONTACT US," or substantially similar*
11 *language.* The notice required by this subdivision shall specify the
12 time when the property will escheat and the effects of escheat,
13 including the need to file a claim in order for the owner's property
14 to be returned to the owner. The notice required by this section
15 shall, in bold or in a font a minimum of two points larger than the
16 rest of the notice, (1) specify that since the date of last activity, or
17 for the last two years, there has been no customer activity on the
18 deposit, account, shares, or other interest; (2) identify the deposit,
19 account, shares, or other interest by number or identifier; (3)
20 indicate that the deposit, account, shares, or other interest is in
21 danger of escheating to the state; and (4) specify that the California
22 Unclaimed Property Law requires banks, banking organizations,
23 and financial organizations to transfer funds of a deposit, account,
24 shares, or other interest if it has been inactive for three years. It
25 shall also include a form, as prescribed by the Controller, by which
26 the owner may confirm the owner's current address. If that form
27 is filled out, signed by the owner, and returned to the holder, it
28 shall be deemed that the account, or other device in which the
29 owner's property is being held, remains currently active and
30 recommences the escheat period.

31 *(c) In addition to the notice required pursuant to subdivision*
32 *(b), the holder may give additional notice as described in*
33 *subdivision (b) at any time between the date of last activity by, or*
34 *communication with, the owner and the date the holder transfers*
35 *the property to the Controller.*

36 ~~(e)~~

37 *(d)* For purposes of this section, "lawful charges" means charges
38 which are specifically authorized by statute, other than the
39 Unclaimed Property Law, or by a valid, enforceable contract.

1 SEC. 5. Section 1532 of the Code of Civil Procedure is
2 amended to read:

3 1532. (a) Every person filing a report as provided by Section
4 1530 shall, no sooner than seven months and no later than seven
5 months and 15 days after the final date for filing the report, pay
6 or deliver to the Controller all escheated property specified in the
7 report. Any payment of unclaimed cash in an amount of at least
8 twenty thousand dollars (\$20,000) shall be made by electronic
9 funds transfer pursuant to regulations adopted by the Controller.
10 *The Controller may postpone the date for payment or delivery of*
11 *the property, and the date for any report required by subdivision*
12 *(b), upon his or her own motion or upon written request by any*
13 *person required to pay or deliver the property or file a report as*
14 *required by this section.*

15 (b) If a person establishes his or her right to receive any property
16 specified in the report to the satisfaction of the holder before that
17 property has been delivered to the Controller, or it appears that,
18 for any other reason, the property may not be subject to escheat
19 under this chapter, the holder shall not pay or deliver the property
20 to the Controller but shall instead file a report with the Controller,
21 on a form and in a format prescribed or approved by the Controller,
22 containing information pertaining to the property not subject to
23 escheat.

24 (c) Any property not paid or delivered pursuant to subdivision
25 (b) that is later determined by the holder to be subject to escheat
26 under this chapter shall not be subject to the interest provision of
27 Section 1577.

28 (d) The holder of any interest under subdivision (b) of Section
29 1516 shall deliver a duplicate certificate to the Controller or shall
30 register the securities in uncertificated form in the name of the
31 Controller. Upon delivering a duplicate certificate or providing
32 evidence of registration of the securities in uncertificated form to
33 the Controller, the holder, any transfer agent, registrar, or other
34 person acting for or on behalf of the holder in executing or
35 delivering the duplicate certificate or registering the uncertificated
36 securities, shall be relieved from all liability of every kind to any
37 person including, but not limited to, any person acquiring the
38 original certificate or the duplicate of the certificate issued to the
39 Controller for any losses or damages resulting to that person by
40 the issuance and delivery to the Controller of the duplicate

1 certificate or the registration of the uncertificated securities to the
2 Controller.

3 (e) Payment of any intangible property to the Controller shall
4 be made at the office of the Controller in Sacramento or at another
5 location as the Controller by regulation may designate. Except as
6 otherwise agreed by the Controller and the holder, tangible personal
7 property shall be delivered to the Controller at the place where it
8 is held.

9 (f) Payment is deemed complete on the date the electronic funds
10 transfer is initiated if the settlement to the state's demand account
11 occurs on or before the banking day following the date the transfer
12 is initiated. If the settlement to the state's demand account does
13 not occur on or before the banking day following the date the
14 transfer is initiated, payment is deemed to occur on the date
15 settlement occurs.

16 (g) Any person required to pay cash by electronic funds transfer
17 who makes the payment by means other than an authorized
18 electronic funds transfer shall be liable for a civil penalty of 2
19 percent of the amount of the payment that is due pursuant to this
20 section, in addition to any other penalty provided by law. Penalties
21 are due at the time of payment. If the Controller finds that a
22 holder's failure to make payment by an appropriate electronic
23 funds transfer in accordance with the Controller's procedures is
24 due to reasonable cause and circumstances beyond the holder's
25 control, and occurred notwithstanding the exercise of ordinary
26 care and in the absence of willful neglect, that holder shall be
27 relieved of the penalties.

28 (h) An electronic funds transfer shall be accomplished by an
29 automated clearinghouse debit, an automated clearinghouse credit,
30 a Federal Reserve Wire Transfer (Fedwire), or by an international
31 funds transfer. Banking costs incurred for the automated
32 clearinghouse debit transaction by the holder shall be paid by the
33 state. Banking costs incurred by the state for the automated
34 clearinghouse credit transaction may be paid by the holder
35 originating the credit. Banking costs incurred for the Fedwire
36 transaction charged to the holder and the state shall be paid by the
37 person originating the transaction. Banking costs charged to the
38 holder and to the state for an international funds transfer may be
39 charged to the holder.

40 (i) For purposes of this section:

1 (1) "Electronic funds transfer" means any transfer of funds,
2 other than a transaction originated by check, draft, or similar paper
3 instrument, that is initiated through an electronic terminal,
4 telephonic instrument, modem, computer, or magnetic tape, so as
5 to order, instruct, or authorize a financial institution to credit or
6 debit an account.

7 (2) "Automated clearinghouse" means any federal reserve bank,
8 or an organization established by agreement with the National
9 Automated Clearing House Association, that operates as a
10 clearinghouse for transmitting or receiving entries between banks
11 or bank accounts and that authorizes an electronic transfer of funds
12 between those banks or bank accounts.

13 (3) "Automated clearinghouse debit" means a transaction in
14 which the state, through its designated depository bank, originates
15 an automated clearinghouse transaction debiting the holder's bank
16 account and crediting the state's bank account for the amount of
17 payment.

18 (4) "Automated clearinghouse credit" means an automated
19 clearinghouse transaction in which the holder, through its own
20 bank, originates an entry crediting the state's bank account and
21 debiting the holder's bank account.

22 (5) "Fedwire" means any transaction originated by the holder
23 and utilizing the national electronic payment system to transfer
24 funds through federal reserve banks, pursuant to which the holder
25 debits its own bank account and credits the state's bank account.

26 (6) "International funds transfer" means any transaction
27 originated by the holder and utilizing the international electronic
28 payment system to transfer funds, pursuant to which the holder
29 debits its own bank account, and credits the funds to a United
30 States bank that credits the Unclaimed Property Fund.

31 SEC. 6. Section 1540 of the Code of Civil Procedure is
32 amended to read:

33 1540. (a) Any person, excluding another state, who claims an
34 interest in property paid or delivered to the Controller under this
35 chapter may file a claim to the property or to the net proceeds from
36 its sale. The claim shall be on a form prescribed by the Controller
37 and shall be verified by the claimant.

38 (b) The Controller shall consider each claim within 180 days
39 after it is filed and may hold a hearing and receive evidence. The
40 Controller shall give written notice to the claimant if he or she

1 denies the claim in whole or in part. The notice may be given by
2 mailing it to the address, if any, stated in the claim as the address
3 to which notices are to be sent. If no address is stated in the claim,
4 the notice may be mailed to the address, if any, of the claimant as
5 stated in the claim. No notice of denial need be given if the claim
6 fails to state either an address to which notices are to be sent or an
7 address of the claimant.

8 ~~(e) No interest shall be payable on any claim paid under this~~
9 ~~chapter.~~

10 *(c) (1) The Controller shall add interest at the rate of 5 percent*
11 *per year or the bond equivalent rate of 13-week United States*
12 *Treasury bills, whichever is lower, to the amount of any claim paid*
13 *to the owner under this section for the period the property was on*
14 *deposit in the Unclaimed Property Fund. No interest shall be*
15 *payable for any period prior to January 1, 1977. Any interest*
16 *required to be paid by the state pursuant to this section shall be*
17 *computed as simple interest, not as compound interest.*

18 *(2) For purposes of this section, the bond equivalent rate of*
19 *13-week United States Treasury bills shall be defined in*
20 *accordance with the following criteria:*

21 *(A) The bond equivalent rate of 13-week United States Treasury*
22 *bills established at the first auction held during the month of*
23 *January shall apply for the following July 1 to December 31,*
24 *inclusive.*

25 *(B) The bond equivalent rate of 13-week United States Treasury*
26 *bills established at the first auction held during the month of July*
27 *shall apply for the following January 1 to June 30, inclusive.*

28 *(d) A holder who pays to the owner property that has escheated*
29 *and been remitted to the state and that, if claimed from the*
30 *Controller, would be subject to subdivision (c) shall add interest*
31 *as provided in subdivision (c). If interest is added, that interest*
32 *shall be repaid to the holder by the Controller in the same manner*
33 *as the principal.*

34 ~~(d)~~

35 *(e) For the purposes of this section, "owner" means the person*
36 *who had legal right to the property prior to its escheat, his or her*
37 *heirs, his or her legal representative, or a public administrator*
38 *acting pursuant to the authority granted in Sections 7660 and 7661*
39 *of the Probate Code.*

40 ~~(e)~~

1 (f) Following a public hearing, the Controller shall adopt
2 guidelines and forms that shall provide specific instructions to
3 assist owners in filing claims pursuant to this article.

4 SEC. 7. Section 1560 of the Code of Civil Procedure is
5 amended to read:

6 1560. (a) Upon the payment or delivery of escheated property
7 to the ~~State~~ Controller, the state shall assume custody and shall be
8 responsible for the safekeeping of the property. Any person who
9 pays or delivers escheated property to the ~~State~~ Controller under
10 this chapter *and who, prior to escheat, if the person's records*
11 *contain an address for the apparent owner, has made reasonable*
12 *efforts to notify the owner by mail or, when the owner has*
13 *consented to electronic notifications, electronically, as required*
14 *by Sections 1513.5, 1514, 1516, and 1520, that the customer's*
15 *property, deposit, account, shares, or other interest will escheat*
16 *to the state*, is relieved of all liability to the extent of the value of
17 the property so paid or delivered for any claim which then exists
18 or which thereafter may arise or be made in respect to the property.
19 Property removed from a safe deposit box or other safekeeping
20 repository shall be received by the ~~State~~ Controller subject to any
21 valid lien of the holder for rent and other charges, such rent and
22 other charges to be paid out of the proceeds remaining after the
23 ~~State~~ Controller has deducted therefrom his selling cost.

24 (b) Any holder who has paid moneys to the State Controller
25 pursuant to this chapter may make payment to any person appearing
26 to such holder to be entitled thereto, and upon filing proof of such
27 payment and proof that the payee was entitled thereto, the ~~State~~
28 ~~Controller~~ Controller shall forthwith reimburse the holder for the
29 payment without deduction of any fee or other charges. Where
30 reimbursement is sought for a payment made on a negotiable
31 instrument (including a travelers check or money order), the holder
32 shall be reimbursed under this subdivision upon filing proof that
33 the instrument was duly presented to him and that payment was
34 made thereon to a person who appeared to the holder to be entitled
35 to payment.

36 (c) The holder shall be reimbursed under this section even if he
37 made the payment to a person whose claim against him was barred
38 because of the expiration of any such period of time as those
39 described in Section 1570.

(d) Any holder who has delivered personal property, including a certificate of any interest in a business association, to the State Controller pursuant to this chapter may reclaim such personal property if still in the possession of the State Controller without payment of any fee or other charges upon filing proof that the owner thereof has claimed such personal property from such holder. The State Controller may, in his discretion, accept an affidavit of the holder stating the facts that entitle the holder to reimbursement under this subdivision as sufficient proof for the purposes of this subdivision.

SEC. 8. Section 1563 of the Code of Civil Procedure is amended to read:

1563. (a) Except as provided in subdivisions (b) and (c), all escheated property delivered to the Controller under this chapter shall be sold by the Controller to the highest bidder at public sale in whatever city in the state affords in his or her judgment the most favorable market for the property involved, or the Controller may conduct the sale by electronic media, including, but not limited to, the Internet, if in his or her judgment it is cost effective to conduct the sale of the property involved in that manner. However, no sale shall be made pursuant to this subdivision until 18 months after the final date for filing the report required by Section 1530. The Controller may decline the highest bid and reoffer the property for sale if he or she considers the price bid insufficient. The Controller need not offer any property for sale if, in his or her opinion, the probable cost of sale exceeds the value of the property. Any sale of escheated property held under this section shall be preceded by a single publication of notice thereof, at least one week in advance of sale, in an English language newspaper of general circulation in the county where the property is to be sold.

(b) Securities listed on an established stock exchange shall be sold at the prevailing prices on that exchange. Other securities may be sold over the counter at prevailing prices or, with prior approval of the California Victim Compensation and Government Claims Board, by any other method that the Controller may determine to be advisable. These securities shall be sold by the Controller no sooner than 18 months, but no later than 20 months, after the final date for filing the report required by Section 1530. If securities delivered to the Controller by a holder of the securities remain in the custody of the Controller, a person making a valid claim for

1 those securities under this chapter shall be entitled to receive the
2 securities from the Controller. If the securities have been sold, the
3 person shall be entitled to receive the net proceeds received by the
4 Controller from the sale of the securities *and shall not be entitled*
5 *to receive any appreciation in the market value of the securities*
6 *occurring after the sale by the Controller.* United States
7 government savings bonds and United States war bonds shall be
8 presented to the United States for payment. Subdivision (a) does
9 not apply to the property described in this subdivision.

10 (c) (1) All escheated property consisting of military awards,
11 decorations, equipment, artifacts, memorabilia, documents,
12 photographs, films, literature, and any other item relating to the
13 military history of California and Californians that is delivered to
14 the Controller is exempt from subdivision (a) and shall be held in
15 trust for the Controller at the California State Military Museum
16 and Resource Center. All escheated property held in trust pursuant
17 to this subdivision is subject to the applicable regulations of the
18 United States Army governing Army museum activities as
19 described in Section 179 of the Military and Veterans Code. Any
20 person claiming an interest in the escheated property may file a
21 claim to the property pursuant to Article 4 (commencing with
22 Section 1540).

23 (2) The California State Military Museum and Resource Center
24 shall be responsible for the costs of storage and maintenance of
25 escheated property delivered by the Controller under this
26 subdivision.

27 (d) The purchaser at any sale conducted by the Controller
28 pursuant to this chapter shall receive title to the property purchased,
29 free from all claims of the owner or prior holder thereof and of all
30 persons claiming through or under them. The Controller shall
31 execute all documents necessary to complete the transfer of title.

32 SEC. 9. Section 1565 of the Code of Civil Procedure is
33 amended to read:

34 1565. Any property delivered to the ~~State~~ Controller pursuant
35 to this chapter that has no apparent commercial value shall be
36 retained by the Controller for a period of not less than ~~18 months~~
37 *seven years* from the date the property is delivered to the
38 Controller. If the Controller determines that any property delivered
39 to him or her pursuant to this chapter has no apparent commercial
40 value, he or she may at any time thereafter destroy or otherwise

1 dispose of the property, and in that event no action or proceeding
2 shall be brought or maintained against the state or any officer
3 thereof, or against the holder for, or on account of any action taken
4 by, the Controller pursuant to this chapter with respect to the
5 property.

6 SEC. 10. Section 1577 of the Code of Civil Procedure is
7 amended to read:

8 1577. In addition to any damages, penalties, or fines for which
9 a person may be liable under other provisions of law, any person
10 who fails to *file a report in the time and manner required by*
11 *Section 1530, or who otherwise fails to report*~~or~~, pay, or deliver
12 unclaimed property within the time prescribed by this chapter,
13 unless that failure is due to reasonable cause, shall pay to the ~~State~~
14 Controller interest at the rate of 12 percent per annum on that
15 property or value thereof from the date the property should have
16 been reported~~or~~, paid, or delivered.